

specification, which is proper when seeking to determine the broadest reasonable interpretation of the claims. Indeed, even absent the very clear meaning of the term “end walls” provided by the specification and the claims of the present application, the plain meaning of the term “wall” does not in anyway describe the flanges (50,52) that are relied on by the Examiner in making the rejection. In this regard, it must be noted that nowhere in the Examiner’s answer or rejection does the Examiner point to any source or evidence (dictionary, etc.) that would support an interpretation of the term “wall” as reading on the flanges (50,52) of Jamison et al.

Next, the Examiner argues that Appellants do not state any structural difference between the flanges (50,52) of Jamison and the end wall recited in the rejected claims. In this regard, Appellants are arguing that the plain meaning, especially in light of the specification of term “wall” provides all the structural meaning required to differentiate from the flanges (50,52) of Jamison. On the other hand, the Examiner appears to be asserting that the flanges (50,52) of Jamison et al can be considered to be “end walls” simply because they happen to occupy a geometric location similar to what is recited for the “end walls” in the claims. However, Appellants are unaware of any rule of claim interpretation that allows the plain meaning of a term to be modified simply because it happens to be located in a similar position as a dissimilar structure in the prior art. This appears to be the foundation of the Examiner’s argument in this case, in that the Examiner is arguing that it would be reasonable for one of ordinary skill in the art to interpret the flanges (50,52) as end walls because they happen to be in a similar location as the “end walls” recited in the claims. This is clearly improper.

Next, the Examiner asserts that “the appellant also admit that the flanges (50,52) provide a surface for sealing the plate pairs (2nd paragraph, page 5) and the flanges (50,52) are joined to the walls of the collecting tanks (paragraph 2, page 7), and that “in other words, the flanges (50,52), if it were to interpret as end walls, would anticipate the claim limitation”. This assertion seems to be irrelevant to the claim language. More specifically, the claim language does not claim that the “end walls” provide “a surface for sealing the plate pairs” (indeed, there is no recitation of “plate pairs”), and the recitations in the claims require more than that the end walls “are joined to the walls of the collecting tank”. Specifically, the claims characterize the collecting tank as:

having walls thereof extending over said front and back of said
core **past said bifurcation** of said end walls and joined in a
fluid tight manner to said end walls of said tubes along **beyond**
said bifurcation to thereby form a fluid tight joint between said
walls of said collecting tank and said end walls of said tubes.
(emphasis added).

It is clear that the walls 70 and 72 of Jamison et al’s collecting tank do not extend “past said bifurcation of said end walls”, and are not joined in a fluid tight manner to the end walls “beyond said bifurcation”, irregardless of the improper interpretation of the flanges (50,52) as “end walls”.

Next, the Examiner asserts that the flanges (50,52) of Jamison et al are simply an extension of the unnumbered end walls identified in the edited figure of the Appeal Brief since the flanges (50,52) extend from the side wall (48) so that the flanges (50,52) also

include the portions indicated in the Appeal Brief. However, under this logic, the Examiner is allowed to assert that any portion of the plates (44,46) of Jamison et al is a side wall (48) or an end wall because the plates (44,46) are continuous stampings. Furthermore, using the same logic, the Examiner could also assert that the sidewall (48) of Jamison et al is actually a flange because the side wall (48) in Jamison et al extends from the flanges (50,52) of Jamison et al. Appellants are unaware of any rule of claim interpretation that would allow the use of such logic wherein a flange, such as one of the flanges (50,52) in Jamison et al can be termed as an "end wall" simply because it is part of a continuous structure and extends from a "side" wall (48). It is respectfully submitted that this logic is improper.

The Examiner's answer includes a Figure A that asserts that a portion (62) of the plates (44,46) is the "bifurcated" section of the end wall (52). However, contrary to this assertion, it can be seen from Fig. 3 of Jamison et al that the portion 62 is simply a deformed part of one of the plates 46 of Jamison et al and that there has been no bifurcation of the plate 46 or of an end wall. Indeed, the only bifurcation shown in Figure A of the Examiner's answers is the slot (84) of Jamison et al, which receives the walls (70) and (72) of the tank of Jamison et al which do not extend past or beyond the slot (84).

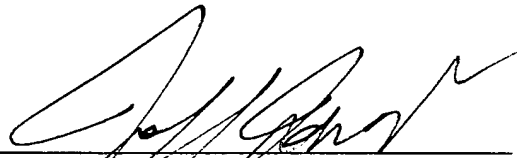
Finally, the Examiner references a plan view of the plates (44,46) in Jamison et al to assert that Jamison et al has a generally rectangular shape, but ignores that claim 11 expressly recites "a generally rectangular cross section" for the recited tubes. Clearly, the plan view relied on by the Examiner is not a cross section of the plates (44,46) of Jamison et al.

In summary, it is respectfully submitted that the Examiner's interpretation of the claim language and/or prior art is completely unreasonable in view of the plain meaning of the terms in the claims, and further in view of the specification of the present application. In view of the foregoing, it is respectfully requested that the rejections be withdrawn and the case allowed.

Respectfully submitted,

WOOD, PHILLIPS, KATZ,
CLARK & MORTIMER

By



Jeffery N. Fairchild
Reg. No. 37,825

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500 West Madison Street
Suite 3800
Chicago, IL 60661
(312) 876-1800